IN THE HIGH COURT OF UTTRANCHAL
AT NAINITAL

A.O. No. 223/2003

Prem Singh S/o late Keshar Singh,
Village Gulzarpur Vanki
Tehsil and Post Office Kaladhungi
District Nainital. ....Claimant / Appellant.

Versus

1- United India Insurance Co. Ltd.
Branch Kalagarh Road,
Dhampur, District Bijnore, U.P.
Through its Branch Manager.
2- Iqbal Zahir S/o Zahir Alam
R/o Station Road, Shiv Dawra
P.S. Shiv Dawra
District Bijnore, U.P. ... O.Ps. / Respondents.

Sri Dinesh Chauhan, learned counsel for the appellant.

Hon'ble B.C. Kandpal, J.:

This appeal for enhancement of compensation, U/S 173 of Motor Vehicles Act, has been preferred by the claimant/appellant, against the judgment and award dated 28-5-2003, passed by Addl. District Judge/ M.A.C.T. Haldwani, in M.A.C.T. No. 156/2001, Prem Singh Vs. Iqbal Zahir and others, awarding compensation to the tune of Rs. 25,000/-. The Tribunal also directed that the compensation be paid by the United India Insurance Company within a period of one month from the date of order, failing which interest @ 9% per annum from the date of filing of petition till the date of actual payment shall be payable.

2- Briefly stated the facts giving rise to this appeal are that on 8-7-2001 at about 6.00 P.M., the claimant Prem Singh along with one Tej Singh was going to his home from Kaladhungi Bazar, riding on motorcycle bearing registration No. U.A. 04/0675, and when they reached near Gaurev General Store, Tata Sumo U.P. 20-C-3032

came from Haldwani side at high speed and dashed the motorcycle from wrong side. Due to the accident the claimant Prem Singh sustained grievous injuries on his head, foot and chest. The claimant filed claim petition for compensation of Rs. Ten Lacs against the owner as well as the insurer of the offending vehicle.

3- O.P. No.1/owner of the offending vehicle filed the W.S. before the Tribunal and alleged that the accident did not occur due to the negligence of the driver of Tata Sumo, but it occurred due to own negligence of the driver of motorcycle. It was also alleged that at the place of accident there was bend and seeing the Tata Sumo the driver of the motorcycle lost his control over it and dashed the vehicle due to which simple injuries were caused to the claimant. It was also alleged that the offending vehicle had valid registration, fitness and its driver had valid driving licence. The vehicle was insured with United India Insurance Company.

4- The United India Insurance Company also contested the case by filing its W.S. in which it was alleged that the accident had occurred due to the fault of motorcycle driver. The claim petition was bad for non-joinder of insurer and driver of the motorcycle. It was also alleged that the driver of Tata Sumo had no valid driving licence and the insurance company is not liable to pay any compensation.

5- On the pleading of parties, the Tribunal framed the following issues in the claim petition:-

1- Whether on 8-7-2001 at about 6 P.M. when the claimant was going along with Tej Singh in his motorcycle U.P. 04-0675, the driver of Tata Sumo

bearing registration No. U.P. 20-C-3032 came there at a high speed and dashed the motorcycle, due to which the claimant sustained injuries?

2- Whether the claimant is entitled to get compensation on the basis of the injuries sustained by him in the accident? If yes, then how-much and from whom?

3- Whether the accident has occurred due to the negligence of the driver of motorcycle U.A. 04-0675? If so, its effect?.

4- Whether the claim petition is bad for non-joinder of owner and driver of motorcycle No. U.A.04-0675, as party to the petition?

5- Whether on the day of the accident the offending vehicle U.P. 20-C/3032 was insured with O.P.No.2 and its driver had valid driving licence and other documents?.

6- Relief to which the claimant is entitled to get?.

6- Thereafter, parties led documentary as well as oral evidence before the learned Tribunal. The learned Tribunal after hearing learned counsel for the parties and perusing the record, awarded Rs. 25,000/- along with interest @ 9% per annum to the claimant against the United India Insurance Company.

7- Feeling aggrieved, the claimant/appellant has preferred this appeal for enhancement of the compensation.

8- Heard learned counsel for the appellant and perused the record.

9- Learned counsel for the appellant has submitted that the claimant sustained injuries on his head, foot and chest in the accident and the learned Tribunal has

wrongly calculated compensation of Rs. 25000/- only. He also submitted that the compensation awarded by the Tribunal is quite inadequate and grossly erroneous and the amount of compensation be enhanced.

10- The only question involved in this appeal is, 'whether the amount of compensation awarded by the Tribunal is inadequate or not?'.

11- The claimant Prem Singh has examined himself as P.W.1 before the Tribunal. According to him he sustained grievous injuries in the accident and remained admitted in the Government Hospital on 8-7-2001 and 9-7-2001 and from 9-7-2001 to 12-7-2001 at Joshi Bone Hospital, Haldwani. Then he remained admitted in Krishna Nursing Home, Haldwani from 12-7-2001 to 15-7-2001. However, the learned Tribunal, on perusal of the papers filed before it, has held that the claimant remained admitted at Government Hospital and Krishna Nursing Home for one day each.

12- Further perusal of record reveals no disability was caused to the claimant. He sustained simple injuries in the accident. The claimant filed prescriptions regarding purchase of medicines amounting to Rs. 13,000/-. The learned Tribunal has awarded this amount towards medical expenses; Rs. 5000/- towards pain and agony; Rs. 2000/- towards loss of profession and Rs. 5000/- towards expenses of C.T. Scan conducted at New Delhi and towards special diet etc. In this way total compensation of Rs. 25,000/- along with interest @ 9% per annum was awarded. In my opinion, looking to the facts and circumstances of the instant case, the compensation awarded to the claimant/appellant is quite justified. Therefore, I hold that the claimant has no

case for enhancement of the compensation. The impugned judgment and award do not require any interference by this court.

13- For the reasons recorded above, I find that the appeal has no merit and is liable to be dismissed.

14- Accordingly the appeal is dismissed. The impugned judgment and award dated 28-5-2003 is hereby confirmed.

(B.C. Kandpal, J.)

Dated: November 01, 2006.
Aswal.